Operator License First Time and Temporary Applicants

The following forms need to be submitted for a First Time or Temporary Applicant Operator License:

- Operator License Application: Please complete in its entirety.
- Certificate of Completed Responsible Beverage Server's Course

**** Payment is required with your application. ****

New/1 Year: $50
Temporary (event only): $10

To submit your application online:

- Save the application as a PDF.
- Complete the Operator/Temporary Portal form *here* and upload your application and certificate pdf files.
- Make your *payment online* with a credit card.

To submit forms and payment to City Hall (cash, check, credit card accepted):

Mail forms or bring in person to:

Stoughton City Hall
Clerk's Office
207 S. Forrest Street
Stoughton, WI 53589

Monday - Friday, 8am to 4pm

Included in this packet is information for you to review as a licensed operator:

- City of Stoughton Information for Bartenders
- City of Stoughton Policy Statement for Alcohol and Operator Applications
- Information for Wisconsin Alcohol Beverage and Tobacco Retailers

If you have any questions, please feel free to contact the Clerk's Office at 608-873-6677.

CITY OF STOUGHTON OPERATOR LICENSE APPLICATION

Receipt Number:_____

- ☐ OPERATOR - 1 YEAR (NEW APPLICANT) - **$50.00**
- ☐ OPERATOR - 2 YEAR (RENEWAL) - **$75.00** *SUBMIT RENEWALS NO LATER THAN **MAY 15** FOR TIMELY PROCESSING*
- ☐ TEMPORARY OPERATOR (EVENT ONLY) - **$10**
- ☐ PROVISIONAL- OPERATOR- **$15.00 (issued after background check)**

TO BE FILLED OUT BY THE APPLICANT:

NAME OF APPLICANT: LAST FIRST MI	WISCONSIN DRIVER'S LICENSE NUMBER:
HOME ADDRESS: STREET CITY STATE ZIPCODE	
PHONE NUMBER: / BIRTHDATE:	BIRTHPLACE:
HOW LONG HAVE YOU CONTINUOUSLY RESIDED IN WISCONSIN?	HAVE YOU COMPLETED BEVERAGE SERVER TRAINING? ☐ YES ☐ NO
PLACE OF EMPLOYMENT AS AN OPERATOR/MANAGER:	HOW LONG HAVE YOU BEEN EMPLOYED AS AN OPERATOR/MANAGER?

Please list **ANY** and **ALL prior convictions** for any felony, misdemeanor or other offenses (including all alcohol related traffic offenses) and **ANY pending** criminal charges against you. (If you need additional space please use the back of this application.)
The following websites may help you locate your records:
www.dot.wisconsin.gov/drivers/drivers/points/abstract.htm **OR** **http://wi-recordcheck.org**

ARRESTING AGENCY: CHARGE: DISPOSITION:

****IMPORTANT NOTE:** This application must be completed fully and in its entirety. If the application is submitted incomplete it will be returned to you as such and you will be required to complete it, delaying the approval of the application. Application fees are NON-REFUNDABLE.

I understand and acknowledge that the Stoughton Police Department will investigate my arrest and conviction history. In applying for this license, I hereby consent to the release of my arrest and conviction history to the City Clerk, the City Attorney, and the Public Safety Committee, and that such information will be used to determine whether I am qualified to hold the license.

I understand that, under Section 14-2 of the Stoughton Municipal Code, licenses may not be issued to any person who has delinquent financial claims with the City, including unpaid taxes, utility charges, fines, or civil forfeitures. In applying for this license, I hereby state that I do not have any such delinquent claims. I understand that a false statement may result in the revocation or non renewal of this license.

_____

APPLICANT SIGNATURE DATE SIGNED

Office Use Only

_____ **Courts** _____ **License number**

_____ **Utilities** _____ **License expiration date**

DATE:	CHIEF OF POLICE - AUTHORIZED SIGNATURE:

RETURN FULLY COMPLETED APPLICATION AND APPLICABLE FEE TO:
CITY CLERK - ATTN: LICENSING, 207 S. FORREST ST, STOUGHTON, WI 53589

CITY OF STOUGHTON
ALCOHOL BEVERAGE OPERATOR'S LICENSES
INFORMATION FOR BARTENDERS

The following information is provided to give you a general idea of the duties and responsibilities of being a bartender in the City of Stoughton. If you have questions about this information, the alcohol beverage operator's (bartender's) license application, or interpretation of any of the questions on the application, please call 873-6677 and ask for the Clerk's Office.

You should be aware that the City of Stoughton has a licensing committee, the Public Safety Committee, who oversees alcohol beverage licensing and regulation. The Public Safety Committee is responsible for considering and approving operator's licenses under certain circumstances. If problems occur related to licensed premises, those problems are reviewed and discussed by the Committee. That Committee also makes recommendations to the Common Council regarding issuance of other alcohol beverage licenses.

An operator's license will enable you to sell beer or liquor on Class A premises such as a package goods store, or to serve beer or liquor on Class B premises such as a tavern or restaurant. The liquor license holder, an agent, or licensed bartender must be on the premises at all times the business is open.

As a licensed bartender, you are in charge of the premises in which you are working, and you have certain responsibilities as a bartender.

The legal drinking age is 21. Under this law, you may not allow any underage person to stay on the licensed premises where you work unless he/she is accompanied by a parent, guardian or adult spouse. You may not sell or serve liquor to any underage person. You may not sell or serve beer to any underage person unless he/she is accompanied by a parent, guardian or adult spouse.

A common problem faced by bartenders is determining whether a person is underage. Always require adequate identification; a Wisconsin photo ID is best. If you are still in doubt, you can ask the person to sign the book that the license holder is supposed to have on the premises for that purpose. You are responsible and may be prosecuted if you sell to or serve an underage person even if that person provided false identification, unless you had him/her sign the book. You may also be prosecuted if you permit underage persons to stay on your premises without their parent, guardian or adult spouse present. Thus, if you have any doubt about the person being of legal age, it is wisest for you not to sell to, or serve that person nor to permit him/her to stay on the licensed premises.

By law, you are also prohibited from serving any person who is intoxicated. You must refuse to serve any person who you feel has had too much to drink.

You can also refuse to serve persons for other reasons, such as being disorderly or causing problems in your bar. You cannot, of course, discriminate against anyone because of race, creed, color or sex.

If someone in your bar is causing a problem, you should ask that person to leave, but don't cause a fight in the bar. If a disturbance occurs or is brewing, call the police department. It is best to call the police before a problem gets completely out of hand. When the police arrive, approach them immediately, identify yourself, explain the problem and then let them handle it.

No gambling nor game of chance of any sort is permitted on licensed premises. However, amusement devices are allowed. If there are amusement devices on the premises, licenses are required for that purpose.

City ordinances prohibit drinking in public. This means no one should be leaving your bar with any beer or liquor in an open glass, bottle, can, or other open container. It is your responsibility to see that your patrons do not walk out of the door carrying open beer or liquor.

Class "B" premises must be closed between 2:00 a.m. and 6:00 a.m. Mon.-Fri. and 2:30 a.m. and 6:00 a.m. on Sat. and Sun. On January 1st, taverns do not have to close. Class "A" premises may be open 8:00 a.m. to 9:00 p.m. Mon.-Sun. Everyone except employees on duty must be out of the store or bar by closing time. Private parties, friends or spouses are not allowed to stay in the store or bar while you clean up. Be sure to start clearing the premises early enough to get everyone out by closing hour.

Remember that you are responsible for the licensed premises where you work. A violation of an ordinance or state law by you as a bartender constitutes a violation by the licensee--your boss--and could jeopardize his liquor license, as well as your bartender's license. You must carry your bartender's license on your person or post it in the establishment where you are working. Operator’s licenses expire on June 30th of each year. You must renew your license every two years.

After you complete and file your operator license application and pay the fee, the police department will investigate your arrest and conviction record. If violations meeting the criteria outlined in the Policy Regarding the Issuance of Alcohol Beverage Operator’s Licenses come up on your record, your application will be forwarded to the Public Safety Committee for consideration and approval. If there are no such violations on your record, the Clerk will issue the license without review by the Public Safety Committee.

A state approved Beverage Server Training Course such as the one at Madison Area Technical College or Black Hawk Technical College must be completed per State Statutes before a license will be issued.

A $50.00 fee is charged for a bartender license. The fee is due at the time the application is filed and covers the cost of processing the application.

You cannot work alone until you receive your bartender's license, but you can work under the supervision of a licensee, an agent, or another licensed bartender. Following Public Safety Committee approval, your license will be mailed to you or you may pick it up from the City Clerk's office. If a license is needed immediately, ask the Clerk about a provisional license. The issuance of a provisional license in no way commits the City to issue a permanent license. The fee for a provisional license is $15.00 and may be valid for up to 60 days. Provisional license may not be issued without proof of registration for a state approved Beverage Servers Training Course per State Statutes.

This information is intended to give you a general understanding of the law as it relates to alcohol beverage regulations. If you have additional questions, you can contact the City Clerk's office, the Police Department or your employer.

CITY OF STOUGHTON

POLICY REGARDING THE ISSUANCE OF ALCOHOL BEVERAGE OPERATOR'S LICENSES

Purpose. In order to provide an effective and consistent system of alcohol licensing that protects the public safety and is applied in a uniform and equitable manner, the City Council has adopted the following written policy to govern the issuance of alcohol beverage operator's licenses pursuant to Chapter 125 of the Wisconsin Statutes.

Procedure.

I. Intake

A. The Clerk shall furnish applications for alcohol beverage operator's licenses to any interested applicant.

B. If the Clerk receives an application that does not include any required information, the Clerk shall return the application to the applicant to correct any omissions or errors.

C. Upon receipt of a complete license application, the Clerk shall forward the application to the Chief of Police or the Chief's designee (the "Chief") for review.

II. Investigation

A. Upon receipt of a complete license application, the Chief shall conduct an investigation of the applicant's arrest and conviction history.

B. The Chief shall prepare a report that contains the applicant's entire arrest and conviction history. The report shall not include the following:

1. The applicant's arrest record history, except the report shall include information relating to a pending criminal charge for an "exempt offense" or a "violent crime against a child" listed under Appendix A.

2. Information relating to any conviction for a non-felony offense, if the applicant has been convicted of not more than one non-felony offense within the last five (5) years, except the report shall include information relating to convictions for violations of Wis. Stat. ch. 125 (alcohol beverage violations), Wis. Stat. § 346.63 (operating while intoxicated), or any municipal ordinances adopted pursuant thereto.

3. Information relating to any conviction that occurred prior to the date of application, if the applicant produces, for each conviction, competent evidence of sufficient rehabilitation and fitness pursuant to Wis. Stat. § 111.335(d)(1).

4. Information relating to any conviction for any violation under Wis. Stat ch. 346 or any municipal ordinance adopted pursuant thereto, except the report shall include violations of Wis. Stat. §§ 346.62 to 346.64 (reckless and drunken driving), Wis. Stat. §§ 346.93 and 346.935 (intoxicants in vehicle), or any municipal ordinances adopted pursuant thereto.

5. Information relating to any conviction for violations of Wis. Stat. § 343.44(1)(a) and (b) (operating while suspended or revoked), or any municipal ordinances adopted pursuant thereto.

C. Upon the request of the Chief, the Clerk may assist the Chief with the preparation of the report under this section.

D. The Chief and/or Clerk may request that the applicant provide additional information relating to any conviction, including whether the applicant possesses competent evidence of sufficient rehabilitation and fitness pursuant to Wis. Stat. § 111.335(d)(1).

E. The Chief shall transmit the report prepared under this section and any related information received from the applicant to the Clerk.

III. Review by Clerk

A. If the report does not contain any arrest and conviction information, the Clerk shall issue the license to the applicant.

B. If the report contains any arrest and conviction information, the Clerk shall forward the license application, report, and any related information to the Public Safety Committee (the "Committee") for review. The Clerk shall provide notice to the applicant that they may appear before the Committee and that, under state law, the applicant has the right to present evidence of rehabilitation and fitness to the Committee.

IV. Review by Committee

A. Upon receipt of the license application and report, the Committee shall consider the application at its next regularly scheduled meeting.

B. In accordance with Wis. Stat. § 125.17, the Committee shall determine whether the applicant is qualified to hold an operator's license under Wis. Stat. § 125.04(5) based on the following:

1. *Substantial Relationship Test*. The Committee shall determine by majority vote whether any violation listed on the applicant's report is substantially related to the licensed activity. If the Committee determines that no pending charge or prior conviction is substantially related, the Committee shall approve the application and direct the Clerk to issue the license.

2. *Right to Present Evidence*. If the Committee finds that any pending charge or prior conviction is substantially related to the licensed activity, the Committee shall allow the applicant to present evidence that the applicant is rehabilitated and fit pursuant to Wis. Stat. § 111.335(4)(d).

3. *Rehabilitation and Fitness*. The Committee shall determine by majority vote whether the applicant has presented competent evidence of sufficient rehabilitation and fitness for each pending charge or prior conviction that is substantially related to the licensed activity. If so, the Committee shall approve the application and direct the Clerk to issue the license. If the Committee determines that competent evidence of sufficient rehabilitation and fitness has not been demonstrated for any violation, the Committee shall deny the application for a license.

C. If the Committee denies an application for a license, the Committee shall direct the Clerk to prepare a written notice of decision stating the reasons for the denial, including a statement of how the circumstances of the offense relate to the particular licensed activity. The Clerk shall provide such notice to the applicant within 10 calendar days of the date of denial.

V. Appeals

A. Any applicant aggrieved by the denial of a license application may request that the Committee review that determination. The request for review shall state the reason or reasons upon which the applicant contends the decision should be modified or reversed. A request for review shall be submitted to the Clerk within 30 calendar days following the applicant's receipt of the written notice of decision.

B. The Committee shall review the initial determination to deny the license application within 15 days of receipt of a request for review. Such time for review may be extended by mutual agreement with the applicant.

C. The applicant may submit written materials and/or appear before the Committee to present evidence in support of the applicant's position. The Committee may affirm, reverse, or modify the initial determination. The Committee shall direct the Clerk to mail or deliver to the applicant a copy of the Committee's decision on review, which shall state the reasons for such decision and shall advise the applicant of the right to appeal the decision, the time within which appeal shall be taken and the office or person with whom notice of appeal shall be filed.

Appendix A

Exempt Offenses and Violent Crimes against Children

Wis. Stat.	Description
940.01	First-degree intentional homicide.
940.02	First-degree reckless homicide.
940.03	Felony murder.
940.05	Second-degree intentional homicide.
940.06	Second-degree reckless homicide.
940.07	Homicide resulting from negligent control of vicious animal.
940.08	Homicide by negligent handling of dangerous weapon, explosives or fire.
940.09	Homicide by intoxicated use of vehicle or firearm.
940.10	Homicide by negligent operation of vehicle.
940.11	Mutilating or hiding a corpse.
948.02	Sexual assault of a child.
948.025	Engaging in repeated acts of sexual assault of the same child.
948.03	Physical abuse of a child.
948.05	Sexual exploitation of a child.
948.051	Trafficking of a child.
948.055	Causing a child to view or listen to sexual activity.
948.06	Incest with a child.
948.07	Child enticement.
948.075	Use of a computer to facilitate a child sex crime.
948.08	Soliciting a child for prostitution.
948.085	Sexual assault of a child placed in substitute care.
948.095	Sexual assault of a child placed by a school staff person or a person who works or volunteers with children.
948.30(2)	Abduction of another's child

Wisconsin Department of Revenue

Information for Wisconsin Alcohol Beverage and Tobacco Retailers

Includes information on:

- **Licenses and permits**
- **Prohibited activities**
- **Underage persons and minors**
- **Cigarette and tobacco products**
- **Vapor products**
- **Video gambling**

Publication 302 (11/21)

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IMPORTANT CHANGES

- **Publication Reorganization.** The publication has been revised to group similar topics into sections. Substantive changes to the publication follow.
- **Liquor Sales Limits**. Effective June 26, 2019, the sale of intoxicating liquor for off-premises consumption by "Class B" licensees is no longer limited to four liters at one time. Municipalities may enact ordinances allowing retail "Class B" (liquor) license holders to sell intoxicating liquor in the original package or container in any quantity for consumption off the licensed premises. Pages 8 and 9.
- **Vapor Products.** Effective October 1, 2019, an excise tax is imposed on the sale of liquid, gel, or other substances used in e-cigarettes at the rate of 5 cents per milliliter of the liquid or other substance producing vapor or aerosol for inhalation from the application of a heating element, regardless of whether the liquid contains nicotine.

  Vapor product retailers without a tobacco products distributor permit purchasing untaxed vapor products must obtain a vapor products distributor's permit and file tax returns. For additional information see Fact Sheet 3501. Pages 20 and 21.
- **Music Festivals.** Effective May 26, 2017, unaccompanied underage persons are allowed on the alcohol licensed premises of a music festival venue during an event with a projected attendance of at least 2,500 persons. Page 12.
- **Permit Listings.** The Department of Revenue (DOR) now publishes on its website lists of permittees from whom retailers may purchase beer, cigarettes, and tobacco. Go to www.revenue.wi.gov, click on Reports and then search "permit". Page 22.
- **False Information Penalty**. Effective July 1, 2018, a penalty of not more than $1,000 may be imposed on any person who knowingly provides materially false information in an alcohol beverage, cigarette or tobacco product license or permit application. Page 8.

Applicable Laws and Rules

This document provides statements or interpretations of Wisconsin and federal laws and regulations enacted as of November 1, 2021. Laws enacted and in effect after this date, new administrative rules, and court decisions may the interpretations in this document. Guidance issued prior to this date, that is contrary to the information in this document is superseded by this document, according to sec. 73.16(2)(a), Wis. Stats.

1. INTRODUCTION

This publication provides information about Wisconsin's alcohol beverage, tobacco, and vapor products laws that affect retailers. The information summarizes laws in chs. 125, 134, 139, and 945 Wis. Stats.

Municipal ordinances may also affect retailers. Contact your municipal clerk if you have questions about local ordinances.

2. DEFINITIONS

The following terms are used for purposes of this publication.

Adult – A person 18 years of age or older.

Alcohol Beverages – A statutory term which includes beer, wine, and liquor.

Beer – A fermented malt beverage under chapter 125, Wis. Stats.

Cider – An alcohol beverage obtained by fermentation of the juice of apples or pears that contains 0.5 to 7.0 percent alcohol by volume. "Cider" may be flavored, sparkling, and/or carbonated.

Class "A" Beer License – Authorizes the retail sale of beer in the original sealed containers for consumption off the licensed premises.

"Class A" Liquor License – Authorizes the retail sale of liquor, including wine and cider, in the original containers for consumption off the licensed premises.

"Class A" (Cider Only) License – Authorizes the retail sale of cider, but no other intoxicating liquor, in the original containers for consumption off the licensed premises

Class "B" Beer License – Authorizes the retail sale of beer for consumption on and off the licensed premises.

"Class B" Liquor License – Authorizes the retail sale of liquor by the glass for consumption on or off the licensed premises and, if allowed by municipal ordinance, in the original sealed container for off-premises consumption.

"Class C" Wine License – Authorizes the retail sale of wine by the glass for consumption on the licensed premises.

Intoxicating Liquor (or Liquor) – Alcohol beverages, except beer, containing 0.5% or more alcohol by volume, including wine.

Legal Drinking Age – 21 years of age.

Minor – A person under 18 years of age.

Painting Studio – An establishment primarily engaged in the business of providing to customers instruction in the art of painting that offers customers the opportunity to purchase food and beverage for consumption while they paint.

Provisional Retail License – Authorizes activities of a regular retail licenses for 60 days or until a regular license is issued, whichever is sooner.

Underage Person – A person who is not of legal drinking age.

3. MUNICIPAL RETAIL LICENSES

A. General

A license is a privilege granted by a municipality (city, village, or town) to a person (e.g., natural person, partnership, limited liability company, or corporation) that authorizes the sale of alcohol beverages for a specified time period. The governing body of the municipality may, but is not required to, issue retail liquor and beer licenses. The municipality may refuse to issue retail licenses if it uses good judgment and does not discriminate between applicants.

B. License Requirements

License requirements and who may issue them are provided by Wisconsin statute and established by ordinance. License requirements for all retail licenses and specific licenses follow.

(1) All Licenses

- **Face-to-Face Sales at Licensed Premises** – With limited exceptions, alcohol beverages may only be sold to consumers who are physically at the licensed premises. (secs. 125.272 and 125.51(6), Wis. Stats.)

Example: The following sales of alcohol beverages are prohibited because they were not made face-to-face with the consumer on the licensed premises:

- Customer phones Pizza Parlor, which holds a Class "B" beer license. Customer orders a pizza and a six-pack of beer for delivery to their home.
- A person calls Liquor Store and requests two half-barrels of beer delivered to their home.
- A home-delivery grocery service takes an internet order for the sale and delivery of wine and beer for a holiday party, receiving payment electronically.

- **Closing Hours** – Customers must leave the premises by the closing hour noted under the specific licenses below. Internal business operations, such as counting cash, cleaning, repairs, etc., may be done after hours, but licensees must prove that anyone on the premises after hours is there for these purposes.

  Exceptions:

  - Class "A" premises may remain open for the conduct of regular business but may not sell beer between 12 midnight and 6 a.m., or at any other time during which the sale of beer is prohibited by a municipal ordinance.
  - The following businesses holding "Class B" and Class "B" licenses may remain open after closing hours noted below to conduct their regular business, although they may not permit consumption of, or sell, alcohol beverages after those closing hours:
    - ✓ Hotels and restaurants whose "principal business" is furnishing lodging and food to customers

      "Principal business" means the primary activity as determined by analyzing the amount of capital, labor, time, attention, and floor space devoted to each business activity and by analyzing the sources of net income and gross income. The name, appearance, and advertising of the entity may also be considered if given less weight.
    - ✓ Bowling centers
    - ✓ Movie theaters
    - ✓ Painting studios
    - ✓ Indoor horseshoe-pitching facilities
    - ✓ Indoor golf and baseball facilities
    - ✓ Golf courses and clubhouses
    - ✓ Curling clubs
    - ✓ Racetrack grounds as defined in sec. 125.27(5)(a), Wis. Stats.

  For determining closing hours, Daylight Saving Time begins at 2:00 a.m. the second Sunday in March and ends at 2:00 a.m. the first Sunday in November. Therefore:

  - Clocks are set ahead one hour at 2:00 a.m. the second Sunday in March. Taverns must close at 3:30 a.m. Central Daylight Time on this date.
  - On the first Sunday in November, the clocks are set back an hour at 2:00 a.m. Taverns must close at 2:30 a.m. Central Standard Time.

- **Licensed Premises Supervision** – Except in Class "A" beer premises between midnight and 6:00 a.m. (or any time when the sale of beer is prohibited by municipal ordinance), one of the following must be present on licensed premises during business hours:

  - Licensee
  - Person with an operator's or manager's license

- Adult member of licensee's immediate family (living in the licensee's household)
- Corporation's or limited liability company's agent
- Provisional operator's license holder

  The holder must be enrolled in the responsible beverage server training course pending approval of the operator's license.

Note: "Immediate supervision" means the licensed person must be able to watch and supervise each unlicensed person's actions. The licensed person must be in the same room or area as the unlicensed person or near enough to see and talk to him or her.

An adult working under the immediate supervision of any of the above does not need an operator's license.

An operator's license is only valid in the municipality where it has been issued. It does not apply in other municipalities.

Licensees may be prosecuted for not having the required supervision on their premises.

- **Alcohol Beverage Seller/Server Training Course** – As a condition of licensing, applicants must successfully complete an approved alcohol beverage seller/server training course, unless the person:
  - Is renewing a retail or an operator's (bartender's) license
  - Was an agent within the last two years for a corporation or limited liability company that held a Class "A" beer, Class "B" beer, "Class A" liquor, "Class A" (cider only), "Class B" liquor, or "Class C" wine license
  - Held a retail license or an operator's or manager's license during the past two years
  - Completed an approved course within the past two years

  Approved classroom and online courses are listed on the DOR's website at revenue.wi.gov; search "Alcohol Seller/Server."

- **Display Framed License** – All alcohol beverage licenses must be framed and displayed in the room where the licensed activity occurs. Anyone visiting the business should easily see the licenses. Any related permits and licenses (e.g., seller's permit) should be displayed with the alcohol beverage license.

(2) Provisional Retail License

- Issued by a designated municipal official only to a person applying for a Class "A" beer, Class "B" beer, "Class A" liquor, "Class B" liquor, or "Class C" wine licenses.
- Fee determined locally not to exceed $15.
- Expires 60 days after issuance or when the person is issued a license, whichever occurs first.
- May be revoked and/or penalty imposed of not more than $1,000 if issuing official discovers the holder knowingly provided false information in the application.
- "Class B" liquor license may not be issued if it would exceed the municipality's quota.
- Not more than one provisional retail license may be issued for each type of license applied for by the holder per year.

(3) Class "A" Beer License

- Authorizes the retail sale of beer in the original sealed containers for consumption off the licensed premises in any quantity.

- Beer sales are prohibited between 12 midnight and 6:00 a.m.
- Municipalities may further restrict sales hours by local ordinance.
- May give customers two free 3-ounce taste samples between 11:00 a.m. and 7:00 p.m.

(4) "Class A" Liquor License

- Authorizes the retail sale of liquor, including wine and cider, in the original containers for consumption off the licensed premises in any quantity.
- Intoxicating liquor sales are prohibited between 9:00 p.m. – 6:00 a.m.
- Municipalities may further restrict sales hours by local ordinance.
- Unless prohibited by municipal ordinance, may give customers two free 3-ounce taste samples of wine between 11:00 a.m. and 7:00 p.m.
- May give customers one free 0.5-ounce taste sample of intoxicating liquor, except wine, between 11:00 a.m. – 7:00 p.m.

(5) "Class A" (Cider Only) Liquor License

- Authorizes the retail sale of cider in the original containers for consumption off the licensed premises in any quantity.
- Issued only to persons holding a Class "A" beer license for the same premises.
- Unless prohibited by municipal ordinance, may give customers two free 3-ounce taste samples of cider between 11:00 a.m. and 7:00 p.m.

(6) Class "B" Beer License

- Authorizes the retail sale of beer for consumption on and off the licensed premises in any quantity. The premises must be closed between the following hours:
  - Monday through Friday – 2:00 a.m. to 6:00 a.m.
  - Saturday and Sunday – 2:30 a.m. to 6:00 a.m.
  - Second Sunday in March – 3:30 a.m. to 6:00 a.m.

  Closing is not required on New Year's Eve.

  Municipalities may **not** further restrict the closing hours.
- Beer sales for off-premises consumption are prohibited between 12:00 midnight and 6:00 a.m.

  Municipalities may further restrict these sales hours by local ordinance.

(7) "Class B" Liquor License

- Authorizes the retail sale of liquor by the glass for consumption on or off the licensed premises.
- A single, open bottle of wine may be taken off the licensed premises if ordered with a meal, accompanied by a dated receipt, and re-corked prior to taking off the licensed premises.
- Wine may be sold in its original container, in any quantity, for on and off-premises consumption.
- Closing hours are the same as Class "B" beer license.

Exception: A winery that has a "Class B" (wine only) license issued under sec. 125.51(3)(am), Wis. Stats., must close between 9:00 p.m. and 8:00 a.m.

- A municipality may allow "Class B" licensees to make retail sales of intoxicating liquor for off-premises consumption. Check with your municipality to see if this is allowed.

(8) "Class C" Wine License

- Authorizes the retail sale of wine by the glass for consumption on the licensed premises.
- A single, open bottle of wine may be taken off the licensed premises if ordered with a meal, accompanied by a dated receipt, and re-corked prior to taking off the licensed premises.
- Closing hours are generally the same as Class "B" beer license.

4. OTHER LICENSES, PERMITS AND REGISTRATIONS

A. Seller's Permit

Every individual, partnership, corporation, or other organization that sells, leases, rents, or licenses tangible personal property (e.g., alcohol beverages), taxable services and other taxable products in Wisconsin must have a seller's permit, unless all sales are exempt from Wisconsin sales or use tax.

Example: A nonprofit organization's sales of tangible personal property, including alcohol beverages, taxable services, and other taxable products are exempt from Wisconsin sales or use tax as occasional sales if (1) its sales of taxable products do not occur on more than 75 days during the calendar year or taxable sales do not exceed $50,000 for the calendar year, (2) entertainment at an admission event is not paid more than $10,000, and (3) it does not hold a seller's permit. For more information about the occasional sales exemption for nonprofit organizations, see Wisconsin Publication 206, Sales Tax Exemptions for Nonprofit Organizations,

The alcohol beverage license and seller's permit must be issued in the same legal name (see exception below). If the alcohol beverage license is issued to a partnership or corporation, the seller's permit must be also. A limited liability company's (LLC) alcohol beverage license must be in the LLC's legal name, not the trade name or owner's name.

Exception: If an alcohol beverage license is issued to an LLC, disregarded for income tax purposes, with a single member (owner), the LLC's seller's permit may be issued in the name of the single owner. If an LLC applies for an alcohol beverage license and furnishes a seller's permit that is not in the legal name of the LLC, the municipality should call DOR at (608) 266-2776 or email DORSalesandUse@wisconsin.gov to verify whether the seller's permit is valid for the LLC.

B. Federal Alcohol Dealer Registration

Before beginning business, every retail licensee must register as an alcohol dealer with the federal Department of Treasury, Alcohol and Tobacco Tax and Trade Bureau (TTB), using Form 5630.5d. Once registered, any change to legal name, trade name, address, premises location, telephone number, business type, or FEIN should be reported before the subsequent July 1 using the same form.

5. PROHIBITED ACTIVITIES

A. Unlicensed Premises Sales

The sale of alcohol beverages at an unlicensed premises is prohibited (see sec. 125.06, Wis. Stats., for a list of exceptions).

"Sale," "sold," or "sell" includes the transfer, gift, barter, trade, exchange, or any shift, device, scheme, or other transaction to obtain alcohol beverages.

B. Sale to Other Licensees

Sales of alcohol beverages by an alcohol beverage licensee to another retail licensees for resale are prohibited.

Exception: If a licensed business is sold, it may transfer its sealed liquor, wine, and beer (alcohol beverage) inventory to another retail licensee in Wisconsin. Cigarettes and tobacco products may not be similarly transferred.

In place of invoices, list the entire sealed inventory of the stock transferred using Form AT 900, Alcohol Beverage Stock Transfer, available at revenue.wi.gov. Make a copy for the buyer and keep the original for your records. The buyer must keep the copy on its licensed premises for two years.

C. Sales to Intoxicated Persons

It is illegal to furnish alcohol beverages to an intoxicated person. The penalty for this violation is a fine of $100 to $500, imprisonment for not more than 60 days, or both.

D. Refilled Liquor Bottles

It is illegal to refill liquor bottles with any substance, even the same brand of liquor.

When a bottle is empty, deface its label. Break the bottle unless placed in a container marked "For Recycling Only."

E. Corkage Fees

If the restaurant has an alcohol beverage license, the only alcohol beverages allowed on the premises are those purchased by the restaurant from a permitted Wisconsin wholesaler. The retailer must have invoices from the wholesaler showing which products were purchased from the wholesaler.

Wisconsin alcohol beverage law does not permit "corkage fees." These fees, charged by restaurants, allow patrons to carry in their own alcohol beverages for consumption on the restaurant premises.

If the restaurant does not have an alcohol beverage license, consumption of alcohol beverages is prohibited. The restaurant owner can be criminally charged for allowing illegal consumption on the premises.

F. Giveaways

Giving away alcohol beverages or using any other device to evade the law relating to its sale is illegal. Examples of these illegal transactions at unlicensed premises include:

- A "free" drink with a meal
- A cover charge where mix is furnished at a price with "no charge" for liquor
- A "free" bottle of liquor tied to the sale of some other item

Violators may be fined not more than $10,000 or imprisoned for not more than nine months, or both.

G. Minimum Markup

Alcohol beverages may not be sold at less than cost. Cost includes a presumptive 3% markup by wholesalers and 6% by retailers.

For questions on cigarette and tobacco products pricing and markup, contact the Wisconsin Department of Agriculture, Trade & Consumer Protection, Trade Practices, at (608) 224-4925 or (608) 224-4989.

6. UNDERAGE PERSONS AND MINORS

A. Entering Licensed Premises

No retail licensee may allow an underage person to enter any part of the licensed premises for any purpose unless an exception applies.

Retailers should demand proof of age of anyone entering the premises who appears to be under the legal drinking age. Customers may prove age with one of the following, if valid:

- Driver's license
- State ID card
- Military ID card
- U.S. passport
- ID card issued by a federally recognized American Indian tribe or band in Wisconsin
- Any other form of identification or proof of age acceptable to the licensee

DOR recommends anyone who has shown proof of legal drinking age to sign an ID register book if the person's age is in question. Record the date of purchase, the identification used, the address, and the signature of the purchaser in the book. The book should be kept on the premises and available for inspection by any peace officer. (sec. 125.07(7), Wis. Stats.)

Exceptions: An underage person may enter a licensed premises if the underage person is:

- Accompanied by their parent, guardian, or spouse of legal drinking age.
- Entering a Class "A" or "Class A" licensed premises to buy items other than alcohol beverages. The underage person may not stay on the premises after the purchase.
- An employee, resident, lodger, or boarder on the premises.
- Entering to do business other than amusement or the purchase or consumption of food and beverages.
- Entering to buy food in a restaurant whose "principal business" is serving food.
- Entering and remaining in a dance hall or banquet or hospitality room attached to a Class B licensed premises to attend a banquet, reception, dance, or similar event.
- Entering the following premises:
  - bowling center
  - car operated by a railroad
  - center for visual or performing art
  - curling club
  - drug store
  - movie theater
  - painting studio
  - private tennis or soccer club
  - racetrack licensed under ch. 562, Wis. Stats.
  - regularly established athletic field

- golf course or clubhouse
- grocery store
- hotel
- indoor golf simulator facility
- billiards center having 12 or more billiards tables (not coin-operated) eight feet or longer
- county or municipally owned public facility as defined in sec. 125.51(5)(b), Wis. Stats.
- indoor golf and baseball facility on premises holding a Class "B" license
- indoor (at least 9 by 18 meters) or outdoor volleyball court
- service station
- ski chalet
- stadiums
- vessel
- music festival venues with projected attendance of at least 2,500 persons
- privately owned fish farm that provides recreational fishing opportunities to the public for a fee and is registered under sec. 95.60(3m) (alcohol sales less than 30%)
- State Fair Park and concessions in state park or forest, or park owned by an agricultural society

- Entering a Class "B" beer or "Class B" liquor licensed premises:
  - to do business at an auction or flea market. In this case, the underage person may not enter any room where alcohol beverages are sold, furnished, or possessed
  - room where no alcohol beverages are sold, furnished, served, or consumed by anyone when the underage person is present

    This applies only if the municipality adopts an ordinance allowing it. The local law enforcement agency must authorize, in writing, the presence of underage persons on the date of the authorization. A separate authorization is necessary for each date on which underage persons will be on the premises. (sec. 125.07(3)(a)(8), Wis. Stats.)
  - On a date specified by the license when no alcohol beverages are consumed, sold, or given away

    The licensee, the agent named on the license (if a corporation), or a person with an operator's license must be on the premises unless all alcohol beverages are in locked storage. The licensee must notify the local law enforcement agency, in advance, when underage persons are on the premises. (sec. 125.07(3)(a)(10), Wis. Stats.)
- At least 18 years old and working under a contract with a licensee, permittee, or corporate agent to provide entertainment for customers on the premises.
- Acting as a designated driver on the premises of a temporary Class "B" (picnic) beer or "Class B" (wine only) licensee authorized to permit underage persons on the premises by the official or body of the municipality that issued the license.

  The licensee must identify the underage person using a wristband or similar item while on the premises.

B. Verifying Identification and Age

(1) Reviewing ID Cards and Driver's Licenses

- Ask pertinent questions about the ID presented. For example, if an ID card is presented as proof of age, ask how the driving was on the way to the establishment. If the person was driving, ask to see his or her driver's license.
- Check the card's expiration date. Only valid proof of age should be accepted.
- Look for "Under 18" or "Under 21" feature on the card.

- Look for "duplicate" stamp on the card. If a duplicate, ask what happened to the original.
- If the card is a Real ID-compliant card, look for a star in the top right corner.
- Ask for additional documentation verifying his or her identity (e.g., credit, debit, or insurance card with their name). People with false IDs rarely carry backup documentation, but most people have several forms.
- Look for laser engraved personal information, signature, and other features unique to Wisconsin ID cards.
- Ask questions about information on the card, such as address, birth date, middle initial, or spelling of last name. If the person doesn't answer to your satisfaction, you may refuse service and ask that person to leave.
- Compare presented driver's license to yours. See (2) below for characteristics of a false ID card or driver's license.
- Use an ID Checking Guide, especially in areas with a heavy out-of-state population (colleges, tourist communities). Several commercial companies publish guides that picture all states' driver's licenses.

(2) False ID Card and Driver's License Characteristics

- Glue lines.
- Bumpy surfaces by the picture or birth date. Any surface area inconsistent with the rest of the ID usually indicates tampering.
- Overlay of reprinted numbers (and a shadowy or cloudy image). The ID card may have been opened to alter numbers.
- Missing spots on the state logo. A person who alters an ID may not pay attention to one of the most obvious clues on the card.
- Letters and numbers font type, color, and size; line spacing, or word and image placement may differ from valid ID cards and driver's licenses. How may digits for expiration and birth date? Are numbers consistent?
- Lack of security features (ultraviolet or micro printing). Use a blacklight and magnifying glass to check for security features.
- Reverse side is unfinished. Often a person altering an ID will spend significant time on reproducing an authentic-looking photo board but merely photocopy the reverse side. These are often blurred, a sure sign of photocopying.
- Weight or size is different. Bend the card, feel it. How does it feel compared to an authentic card? Does it measure the same?
- Colors vary from an authentic ID or license.
- Corners of the card are uneven and jagged rather than well-rounded and smooth. This is one of the best methods for detecting counterfeit cards.
- Shadows or glare on the picture or eye redness. Most driver licensing station cameras are set to avoid these problems.
- Laminate differs from authentic card or license. Is it clear or cloudy?

(3) Retaining Proof of Age

No person who holds a license or permit, and no employee of such a person, is civilly liable for retaining a document presented as proof of age. The document may be retained for a reasonable length of time in a good faith effort to (a) determine whether the person who presented the document is underage or (2) notify law enforcement of a suspected violation for carrying a false ID. (sec. 125.039, Wis. Stats.)

C. Possession by Underage Persons

An underage person may not possess alcohol beverages anywhere unless accompanied by a parent, guardian, or spouse of legal drinking age. This does not apply to underage persons employed by the following types of licensees or permittees, in the course of their employment:

- Brewers and brewpubs
- Beer wholesalers
- Liquor wholesalers
- Facilities producing alcohol fuel
- Retail licensees or permittees, under the provisions of secs. 125.32(2) and 125.68(2), Wis. Stats. (laws covering operator's licenses), or for delivery of unopened containers to the home or vehicle of a customer
- Campuses, if the underage person is at least 18 years of age and is under the immediate supervision of a person of legal drinking age

(sec. 125.07(4)(b) and (bm), Wis. Stats.)

D. Sales and Service to Underage Persons

An underage person accompanied by their parent, guardian, or spouse of legal drinking age may be sold or served alcohol beverages in any licensed premises, if allowed by the establishment. (sec. 125.07(1), Wis. Stats.)

E. Employing Minors

- Minors under 14 years old may not be employed where alcohol beverages are sold.

  Exception: Minors 12 years or older may be employed at a business owned by their parent, even though beverages are sold.
- Minors 14 years or older (including minors that are 12 or 13 years old under the exception above) may be employed where alcohol beverages are stored, sold, or served if they are not serving, selling, dispensing, or giving away alcohol beverages, or acting as bouncers, crowd controllers, or identification checkers. This applies to all places licensed to sell alcohol beverages, including stores, service stations, bars, and restaurants.
- Minors may not be employed or appear as musicians, singers, performers, or dancers at roadhouses, dance halls, night clubs, taverns, or similar places, except:
  - Minors 16 or 17 years old may be employed or appear as musicians in a hall on Friday, Saturday, or any other day not followed by a school day, or before midnight on Sunday, if the hall was rented to celebrate a special event such as a wedding, holiday, birthday, or anniversary.
  - Minors may be employed or appear at dances held solely for minors that are conducted by private clubs or civic organizations where admission is limited to the club membership or by club invitation and the general public is excluded.

(sec. 103.78, Wis. Stats., and sec. DWD 270, Wis. Adm. Code)

F. Other

- No one may falsely represent that they are of legal drinking age to ask for or obtain alcohol beverages in any licensed premises. (sec. 125.07(4), Wis. Stats.)
- No one may possess or consume alcohol beverages in a public, parochial, or private school, through 12th grade, or in a vehicle owned by, rented, or consigned to a school or while participating in a school activity, without the express, written permission of the school administrator (sec. 125.09(2), Wis. Stats.). Permission may not be given to underage persons.
- A licensed alcohol beverage retailer may bring a civil action against a person who violates the state's underage drinking law, if the following conditions are met:
  - The conduct must occur on the retailer's premises
  - The retailer must mail notice of the intent to bring action to the underage person or the underage person's parent, as applicable, at least 15 days prior to filing the action
  - The retailer must not have been convicted of, received a citation for, or been charged with a violation of the underage drinking law
  - The retailer must have reported the suspected conduct to law enforcement at or near the time when the conduct was first discovered

    This provision does not apply if the underage person was employed by or assisting a law enforcement agency in carrying out enforcement to determine compliance with or investigating potential violations of the prohibition on underage persons in licensed premises. A retailer prevailing in the civil action shall be awarded $1,000 in damages and the costs of bringing the civil action. (sec. 125.07(4)(f), Wis. Stats.)

G. Penalties

- **Entry** – Alcohol beverage licensees permitting unaccompanied underage persons to unlawfully enter the premises are subject to a forfeiture of not more than $500. (sec. 125.07(3), Wis. Stats.)
- **Age Misrepresentation** – An unaccompanied underage person unlawfully entering a licensed premises or misrepresenting their age to obtain alcohol beverages is subject to a $250 to $500 forfeiture, suspension of motor vehicle operating privileges under sec. 343.30(6)(b)1, Wis. Stats., participation in a supervised work program, or a combination of these penalties.
- **Sale** – A person selling or furnishing alcohol beverages to an unaccompanied underage person is:
  - Required to forfeit not more than $500 if the person has not committed a previous violation within 30 months of the violation
  - Fined not more than $500 or imprisoned for not more than 30 days or both if the person has committed a previous violation within 30 months of the violation
  - Fined not more than $1,000 or imprisoned for not more than 90 days or both if the person has committed 2 previous violations within 30 months of the violation
  - Fined not more than $10,000 or imprisoned for not more than 9 months or both if the person has committed 3 or more previous violations within 30 months of the violation (sec. 125.07(1), Wis. Stats.)

  If a violation occurs on a licensed premises and is detected by means of an undercover underage person employed by or assisting a law enforcement agency, only the individual responsible for providing the alcohol beverages to the underage person may be issued a citation for, or charged with, the violation.
- **School Possession** – Anyone unlawfully possessing or consuming alcohol beverages on a school premises, in a school vehicle, or while participating in a school activity is subject to a forfeiture of not more than $200 (sec. 125.09(2)(d), Wis. Stats.)

Exception: A disposition in the proceedings against an underage person is provided by secs. 125.07(4)(c) and (d) and 938.344, Wis. Stats.

- **License Holder Violations** – The alcohol beverage license of any person committing a violation of sec. 125.07(1), Wis. Stats., must be suspended for:
  - Not more than 3 days if a second violation is committed within 12 months of a previous violation.
  - Not less than 3 days nor more than 10 days if a third violation is committed within 12 months of two previous violations.
  - Not less than 15 days nor more than 30 days if a fourth violation is committed within 12 months after committing three other violations.
- **False Identification Provided to Underage Person** – Anyone other than a person authorized by secs. 125.085 or 343.50, Wis. Stats., who makes, alters, or duplicates an official identification ("ID") card, provides an official ID card to an underage person, or knowingly provides other documentation to an underage person claiming that the underage person is of legal drinking age may be fined not less than $300 nor more than $1,250 or imprisoned not less than ten days nor more than thirty days, or both.

  If violated for money or other consideration, the person is guilty of a Class I felony.
- **False Identification by Underage Persons** – Any underage person who does any of the following may be penalized. For a first violation, a $300 to $1,250 forfeiture, suspension of the person's driving privileges, participation in a supervised work program, or any combination of these penalties.
  - Intentionally carries an official ID card not legally issued to him or her, an official ID card obtained under false pretenses, or an official ID card which has been altered or duplicated to give false information.
  - Makes, alters, or duplicates an official ID card.
  - Gives false information in applying for an official ID card.
  - Intentionally carries an ID card or other documentation showing that he or she is of legal drinking age, knowing that the documentation is false.
  - Provides to another underage person an official ID card or other documentation claiming that the other underage person is of legal drinking age, knowing that the documentation is false.

7. RECORDKEEPING

A. Invoices

Every licensed retailer must keep paper or electronic copies of all purchase invoices for alcohol beverages on the licensed premises for two years from the date of the invoice. Invoices should be kept in chronological order and be available for inspection during all reasonable hours. (sec. 139.11(1), Wis. Stats.)

B. Identification Register

DOR recommends that every licensee keep an identification (ID) register. Record the identity of a person who alleges they are:

- Legal drinking age.
- Underage person's parent, guardian, or spouse and of legal drinking age.

Include the date of purchase, type of identification used, address, and signature of the person. Verify the signatures in the book and on the person's ID match.

(sec. 125.07(7), Wis. Stats.)

A "Proof of Age Register" or "Identification Register Book" may be purchased from:

- Tavern League of Wisconsin, 2817 Fish Hatchery Road, Fitchburg, WI, 53713-5005, phone: (608) 270-8591, website: tlw.org.
- Wisconsin Grocers Association, 10 West Mifflin, Ste. 205, Madison, WI, 53703, phone: (608) 244-7150, website: wisconsingrocers.com.

8. OTHER ALCOHOL BEVERAGE INFORMATION

A. Payment for Alcohol Beverages

A licensee may only buy liquor or beer for cash or on credit terms for a period not to exceed:

- Beer - 15 days
- Liquor - 30 days

A licensee in debt to a wholesaler beyond the above time periods may not purchase alcohol beverages from the wholesaler. A person may not be issued a license if he or she exceeds these limits.

B. Nonalcohol Beverages

Beverages that contain less than 0.5% alcohol by volume are not alcohol beverages regulated by ch. 125, Wis. Stats. Therefore, nonalcohol (NA) "beer," and mocktails may be sold in the same manner as water and sodas (e.g., regardless of age).

These beverages should not be confused with those labeled "low alcohol" (LA), which generally contain 3.2% alcohol, and are regulated by ch. 125, Wis. Stats.

C. Temporary Class "B" and "Class B" Licenses

Temporary Class "B" beer and "Class B" wine only licenses (picnic licenses) are short-term authorizations that allow the following organizations to make retail sales of alcohol beverages at a particular picnic or similar gathering, at a meeting of the post, or during a fair:

- bona fide clubs and chambers of commerce
- county or local fair associations or agricultural societies
- churches, lodges, or societies that have been in existence for at least 6 months before the date of application
- posts of veterans' organizations

Temporary licenses may also be issued to authorize a "wine walk" or "beer walk." This is a single day event at which customers are served a glass of beer or wine at multiple locations (e.g., jewelry stores, art galleries, clothing boutiques, salons, furniture stores, etc.) during shopping visits.

(1) Requirements

Requirements that apply to other alcohol beverage licensees also apply to Temporary "Class B" wine and Temporary Class "B" beer licensees, including:

- Licensed operators (person's holding an operator's license, also known as a "bartender's license") serving the wine or beer and/or supervising serving wine or beer.

- Temporary operator's licenses may be issued to persons employed by or donating services to the qualified organization for the event. A person may hold two temporary operator's licenses per year.
- Licensees must purchase all wine and beer from liquor or beer wholesalers and breweries/brewpubs authorized to self-distribute to retail licensees.

Form AT-315, *Application for Temporary Class "B" / "Class B" Retailer's License*, is submitted by the qualifying organization to the municipality to apply for a Temporary Class "B" beer or Temporary "Class B" wine license. Applicants for a wine walk or beer walk should attach to the application a list of participating locations and premises descriptions **or** submit a separate application for each location participating in the event.

(2) Wine Walk

A municipality may issue to the same qualified organization up to 20 Temporary "Class B" wine licenses for the same date and time. The qualified organization is the licensee and sponsor of the single-day, multiple-location event. The following requirements apply:

- Admission fees must be charged for participation in the event and no additional fees may be charged for service of alcohol beverages at the event
- Municipalities may authorize the licensee to permit unaccompanied underage persons on the licensed premises if the underage person is a designated driver and is identified by the licensee (e.g., wristband)
- No person may serve wine after 9:00 p.m. on the licensed premises
- Qualified organizations may receive Temporary "Class B" (wine) licenses for up to two events during a 12-month period
- Municipalities are limited to 2 wine walks within any 12-month period.

(3) Beer Walk

A municipality may issue to the same qualified organization an unlimited number of Temporary Class "B" beer licenses for the same date and time. The qualified organization is the licensee and sponsor of the single-day, multiple-location event. The following requirements apply:

- Admission fees must be charged for participation in the event and no additional fees may be charged for service of alcohol beverages at the event
- Municipalities may authorize the licensee to permit underage persons on the licensed premises
- Sales for off-premises consumption must end by midnight, or earlier if required by municipal ordinance
- Municipalities may charge up to $10 for each Temporary Class "B" beer or Temporary "Class B" wine license issued for the single-day, multiple-location event.

D. Inspection of Licensed Premises

Licensed premises may be inspected by law enforcement officers during all reasonable hours, including business hours. All rooms connected to the barroom, sales room, or storage area may be inspected as part of the licensed premised. Refusing to permit an inspection is grounds for revocation or suspension of the license. (sec. 139.08(4), Wis. Stats.)

Alcohol beverages, cigarettes, tobacco products, and personal property identified in violation of the statutes may be seized.

9. CIGARETTE AND TOBACCO PRODUCTS

A. Definitions

- Cigarette – any roll of tobacco wrapped in paper or any substance other than tobacco.
- Nicotine Product – a product that contains nicotine and is not any of the following:
  - tobacco product
  - cigarette
  - product approved by the U.S. Food and Drug Administration for sale as a smoking cessation product or for another medical purpose that is marketed and sold solely for the approved purpose.
- Tobacco products – include:
  - cavendish
  - cheroots
  - cigars
  - fine cut and other chewing tobaccos
  - granulated, plug cut, crimp cut, ready-rubbed, and other smoking tobacco
  - periques
  - plug and twist tobacco
  - refuse scraps, clippings, cuttings and sweepings of tobacco and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking
  - shorts
  - snuff flour
  - snuff, including moist snuff
  - stogies

  "Tobacco products" does not include cigarettes, as defined under sec. 139.30 (1m).

B. Licenses

A license from a municipality is required to directly or indirectly sell, expose for sale, possess with intent to sell, or give away any cigarettes or tobacco products in any manner or upon any pretense or by any device.

The following provisions apply:

- **Training** – Retailers are required to provide training to employees whose duties include the sale of cigarettes, tobacco products, or nicotine products. The training must be an approved program by the Department of Health Services.
- **Inspection / Confiscation** – Licensed premises may be inspected by law enforcement officers during all reasonable hours, including business hours. Refusal to permit inspection is punishable by fine, imprisonment, or both.

  All cigarettes or tobacco products kept in violation of the laws and all personal property used in connection is subject to seizure.

- **Recordkeeping** – Every licensed retailer must keep purchase invoices for cigarettes and tobacco products on the licensed premises for two years from the date of the invoice. Invoices should be kept in chronological order and be available for inspection during all reasonable hours. (sec. 134.65(4), Wis. Stats.)

C. Purchases

Retailers must purchase cigarettes and tobacco products from a manufacturer, distributor or jobber who holds a valid permit from DOR. If a retailer purchases tobacco products from an out-of-state company that does not have a permit from DOR, the retailer must obtain a distributor permit from DOR.

D. Sales

- **Certified Manufacturers and Brands** – Only cigarettes and Roll-Your-Own (RYO) tobacco products in Directory of Certified Tobacco Manufacturers and Brands on the Wisconsin Department of Justice's website (www.doj.state.wi.us) may be sold to Wisconsin consumers. Products not listed cannot be sold or possessed for sale after the date shown on the directory. Wholesalers and retailers that possess for sale, or sell, products in violation are subject to confiscation of that product and/or fines, forfeitures and revocation of their permits.
- **Minimum Markup** – The unfair Sales Act, commonly referred to as the Minimum Markup Law" (sec. 100.30), provides that tobacco products, including cigarettes, may not be sold at less than cost. Cost includes a presumptive 3% markup by wholesalers and presumptive 6% markup by retailers. The Wisconsin Department of Agriculture, Trade & Consumer Protection (DATCP) administers the Unfair Sales Act. For questions on cigarette and tobacco products pricing or markup, contact DATCP Trade Practices staff at (608) 224-4925 or (608) 224-4989.
- **Single Cigarettes** – Federal law prohibits sales of cigarette packages containing fewer than 20 cigarettes, including single cigarettes, known as "loosies." No retailer may sell individual cigarettes.

E. Underage Persons

- **Sales to Underage Persons** – According to federal law (21 USC 387f(d)(5)), no retailer may sell or give away cigarettes, tobacco products, or nicotine products (including electronic cigarettes containing nicotine) to someone under 21 years of age.
- **Possession of Cigarettes/Tobacco Products/Nicotine Products by Minors** – A person under 18 years of age may possess cigarettes/tobacco products/nicotine products for the sole purpose of resale in the course of employment during their working hours if employed by a licensed retailer. (sec. 254.92(2), Wis. Stats.)

10. VAPOR PRODUCTS

A. Definitions

- Vapor product – a noncombustible product that produces vapor or aerosol for inhalation from the application of a heating element, regardless of whether the liquid or substance contains nicotine.
- Distributor – any person:
  - engaged in the business of selling vapor products in Wisconsin who brings, or causes to be brought, into Wisconsin from outside Wisconsin any vapor products for sale
  - who makes, manufactures or fabricates vapor products in Wisconsin for sale in Wisconsin
  - located and selling vapor products in another state who ships or transports vapor products to Wisconsin retailers for sale by those retailers

Note: A distributor includes a retailer that makes sales of untaxed vapor products in Wisconsin which are brought into Wisconsin from another state.

B. Permit

Distributors of vapor products that do not currently hold a tobacco distributor permit must apply for a permit by completing Form CTP-129, *Cigarette-Tobacco/Vapor Products Permits Application*. (sec. 139.79, Wis. Stats.)

Retailers that bring untaxed vapor products into Wisconsin for sale to consumers must obtain a tobacco distributor permit.

Wisconsin retailers should review the Wisconsin Tobacco Products Permit Listing at revenue.wi.gov for purchasing vapor products from businesses that hold a Wisconsin tobacco and vapor products distributor's permit.

C. Taxes

An excise tax is imposed on vapor products received by distributors in Wisconsin.

The tax is imposed on the sale, offering or exposing for sale, possession with intent to sell or removal for consumption or other disposition for any purpose of vapor products. The tax rate is 5 cents per milliliter of the liquid or other substance based on the volume listed by the manufacturer and at a proportionate rate for any other quantity or fractional part.

The vapor products tax is reported electronically using Form TT-100, *Wisconsin Distributor's Tobacco and Vapor Products Tax Return*, and supporting schedules.

11. VIDEO GAMBLING

The operation of video gambling machines is a violation of Wisconsin law.

A gambling machine is a contrivance which, for a consideration, affords the player an opportunity to obtain something of value, the award of which is determined by chance, even though accompanied by some skill and whether the prize is automatically paid by the machine. (sec. 945.01(3), Wis. Stats.)

A "gambling machine" does not include any of the following:

- A device used in conducting a bingo occasion or raffle event under ch. 563, Wis. Stats., used in conducting a lottery under ch. 565 or used in conducting a race under ch. 562.
- Any amusement device if it rewards the player exclusively with one or more non-redeemable free replays for achieving certain scores and does not change the ratio or record the number of the free plays so awarded.
- An amusement device involving skill, if it rewards the player exclusively with merchandise contained within the amusement device proper and limited to prizes, toys and novelties, each having a wholesale value which is not more than seven times the cost charged to play the amusement device once or $5, whichever is less.

  "Skill" means, within an opportunity provided for all players fairly to obtain prizes or rewards of merchandise, a player's precision, dexterity or ability to use his or her knowledge which enables him or her to obtain more frequent rewards or prizes than does another less precise, dexterous or knowledgeable player.

A. Enforcement

- **DOR** – Only a DOR special agent certified as a law enforcement officer may investigate or enforce video gambling violations on premises of persons holding "Class B" liquor and/or Class "B" beer licenses with **five or fewer** video gambling machines.
- **Municipalities** – Cities, towns, and villages have the authority to prohibit by ordinance all forms of gambling and to seize anything devised solely for gambling or used for gambling. Local law enforcement investigates and enforces these ordinance violations.

(sec. 175.38, Wis. Stats.)

B. Violations

- Having five or fewer video gambling machines on a Class B premises may result in the following:
  - Seizure of the machines
  - Seizure of money in the machines
  - Forfeiture of $500 per machine per incident
- Having more than five video gambling machines on a Class B premises, or any number of video gambling machines on any other licensed or unlicensed premises, is a felony.

  The licensee may be arrested by a DOR special agent or a law enforcement officer of the jurisdiction where the arrest is made.

(sec. 945.03(2m), Wis. Stats.)

C. Taxes

The sales price from admissions for access to illegal video gambling machines are subject to Wisconsin sales tax and the net income is subject to Wisconsin income or franchise tax. The sales, lease, or rental of the machines is subject to Wisconsin sales and use tax.

DOR conducts audits of both machine operators and Class B establishments for income or franchise and sales and use tax compliance.

For more information about Wisconsin taxes on video gaming receipts, see Wisconsin Tax Bulletin 209, page 5.

12. RESOURCES

A. Wholesale Permit Holders List

Alcohol beverage, cigarette, and tobacco and vapor products retailers must purchase alcohol beverages cigarettes, and tobacco, and vapor products only from permitted Wisconsin wholesalers. Alcohol beverage retailers may also purchase from permitted self-distributing brewers or brewpubs.

The following lists of wholesalers holding permits issued by DOR can be found at revenue.wi.gov:

- Wisconsin Liquor Permit Listing
- Wisconsin Fermented Malt Beverage Permit Listing
- Wisconsin Cigarette Permit Listing
- Wisconsin Tobacco/Vapor Products Permit Listing

B. Published Guidance

DOR has publications, fact sheets, newsletters, and answers to common questions that provide additional information about alcohol beverages, cigarette, tobacco, and vapor products. These resources can be found at:

- Alcohol Beverage: https://www.revenue.wi.gov/Pages/AlcoholBeverage/home.aspx
- Cigarette, Tobacco, and Vapor Products: https://www.revenue.wi.gov/Pages/Businesses/Tobacco.aspx

C. Alcohol Beverage News

Sign up to receive email updates from DOR. Go to revenue.wi.gov, search for "subscribe" and sign up for Alcohol Beverage News.

D. DOR Assistance

If you are unable to find an answer to your questions about the Wisconsin alcohol beverage, cigarette, or tobacco and vapor products laws, visit the DOR's website, email, write, or call:

Visit our website . . . revenue.wi.gov

Email. . . DORAlcoholTobaccoEnforcement@wisconsin.gov

Write . . . Wisconsin DOR
P.O. Box 8933
Madison, WI 53708-8933

Telephone. . . (608) 264-4573